

APPENDICES

APPENDIX A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ISMAEL C [REDACTED],

Plaintiff,

v.

NAVIENT SOLUTIONS, INC.,

Defendant.

Case No. 0:16-cv-61049-UU

AMENDED JOINT STIPULATION OF FACTS

WHEREAS, plaintiff, Ismael C [REDACTED] (plaintiff), and Defendant, Navient Solutions, Inc. (NSI), wish to streamline the issues in this action and reduce the time and expense of certain discovery:

NOW THEREFORE, plaintiff, on the one hand, and NSI, on the other hand, by and through their undersigned counsel, hereby stipulate as follows:

1. NSI's call log showing calls to telephone number [REDACTED] between September 15, 2014 and May 18, 2016 produced in this case (Bates Nos. NSI 0000217-0000262) confirms:

- a. Between September 14, 2014 and May 18, 2016, NSI made a total of 756 calls to telephone number [REDACTED]
- b. NSI made 525 of the calls to telephone number [REDACTED] after the conversation with Plaintiff on June 18, 2015;

- c. NSI made 521 of the calls to telephone number [REDACTED] after the conversation with Plaintiff on June 22, 2015;
- d. NSI made 325 of the calls to telephone number [REDACTED] between June 18, 2015 and November 1, 2015;
- e. NSI made 321 of the calls to telephone number [REDACTED] between June 22, 2015 and November 1, 2015;
- f. NSI made 200 of the calls to telephone number [REDACTED] between November 2, 2015 and May 18, 2016;
- g. NSI made 20 of the calls to telephone number [REDACTED] between June 18, 2015 and June 30, 2015;
- h. NSI made 16 of the calls to telephone number [REDACTED] between June 22, 2015 and June 30, 2015;
- i. NSI made 56 of the calls to telephone number [REDACTED] in July 2015;
- j. NSI made 76 of calls to telephone number [REDACTED] in August 2015;
- k. NSI made 74 of the calls to telephone number [REDACTED] in September 2015;
- l. NSI made 98 of the calls to telephone number [REDACTED] in October 2015;
- m. NSI made 96 of the calls to telephone number [REDACTED] in November 2015;

- n. NSI made 73 of the calls to telephone number [REDACTED] in December 2015;
- o. NSI made 14 of the calls to telephone number [REDACTED] in January 2016;
- p. NSI made 12 of the calls to telephone number [REDACTED] in February 2016;
- q. NSI made 0 of the calls to telephone number [REDACTED] in March 2016;
- r. NSI made 0 of the calls to telephone number [REDACTED] in April 2016; and
- s. NSI made 6 of the calls to telephone number [REDACTED] in May 2016.

2. For purposes of this litigation only, NSI will not contest the calls to telephone number [REDACTED] listed on the call log were made in either predictive or blast modes using predictive dialers, which the FCC has concluded constitutes an "automatic telephone dialing system" (ATDS) as defined under the Telephone Consumer Protection Act (TCPA). To the extent plaintiff must prove the phone system(s) used by NSI to call telephone number [REDACTED] constitute an ATDS, NSI will not contest this fact.

3. This Joint Stipulation is specific to this litigation only and it is understood by all parties that it shall not be used, or have any effect, in any other litigation or proceeding. This Joint Stipulation does not represent a concession or admission outside

this litigation that NSI ever used or uses an ATDS or artificial or prerecorded voice in any respect whatsoever.

4. The parties agree this Joint Stipulation is confidential and will not be made public unless NSI makes it necessary for plaintiff to prove the issues stipulated to herein.

5. Facsimile signatures (email, etc.) on this agreement shall be deemed original, and the agreement may be signed in counterparts.

6. To the extent NSI makes it necessary for plaintiff to prove such issues at trial, the parties hereby agree is document is admissible at trial for purposes of proving NSI used an ATDS to place non-emergency telephone calls to plaintiff's cellular telephone after June 18, 2015.

7. NSI does not dispute anything listed in this Joint Stipulation.

Dated this 23rd day of January 2017.

Respectfully submitted,

/s/Stefan A. Alvarez
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APPENDIX B

1 to a customer requesting a cease and desist.

2 **Q. Okay. That would be if a customer requested the**
3 **calls stop, basically revoking consent for the**
4 **phone calls?**

5 A. If they were requesting a cease and desist, and,
6 again, that would all be dependent on specific
7 circumstances for each account.

8 MR. ALVAREZ: Okay. I'm going to play
9 you a recording. Bear with me. If you guys
10 can't hear it, please let me know.

11 THE WITNESS: Okay.

12 (Recording played.)

13 MR. ALVAREZ: Are you guys able to hear
14 that clearly?

15 THE COURT REPORTER: No, we are not at
16 all. It's very jumbled.

17 MR. ALVAREZ: Hmm. Okay. Can we go
18 off the record for a second?

19 THE VIDEOGRAPHER: Going off record.
20 It's 3:57.

21 (A discussion is held off the record.)

22 THE VIDEOGRAPHER: We are back on
23 record. It's 3:59.

24 MS. VAN HOOSE: And just for the record
25 this is the document Bates numbered NSI 188.

1 (The following recording played at this
2 time was later transcribed by the court reporter
3 as follows:)

4 NAVIENT REPRESENTATIVE: Hello. May I
5 please speak with Ismael C [REDACTED]?

6 MR. C [REDACTED]: Who's calling?

7 NAVIENT REPRESENTATIVE: This call may
8 be recorded. My name is Davon Thomas with
9 Navient Servicing. And this is --

10 MR. C [REDACTED]: What, sir, can I help you
11 with?

12 NAVIENT REPRESENTATIVE: -- Ismael
13 C [REDACTED]? Yes, sir. Well, we're just calling to
14 offer assistance today with your student loans
15 and just to ensure that we do have everything
16 updated. Is your address in Fort Lauderdale,
17 Florida, and I have --

18 MR. C [REDACTED]: You have all my address.
19 I'm at work at the moment right now and I'm in
20 the middle of a project and --

21 NAVIENT REPRESENTATIVE: Well, this
22 won't take long at all, sir. I just need to make
23 sure that everything is updated, and then I can
24 assist you really quickly here. I saw your
25 address is the 2141 Northeast 68th Street, No.

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1 208 --

2 MR. C [REDACTED]: Yes.

3 NAVIENT REPRESENTATIVE: -- Fort
4 Lauderdale, Florida 33308?

5 MR. C [REDACTED]: Yes.

6 NAVIENT REPRESENTATIVE: Okay. Do you
7 have a telephone number as 754-366-4693?

8 MR. C [REDACTED]: Yes.

9 NAVIENT REPRESENTATIVE: Do you have
10 any other numbers that you want to add today?

11 MR. C [REDACTED]: No.

12 NAVIENT REPRESENTATIVE: Okay. Do you
13 have the e-mail address of -- see. I really do
14 appreciate your patience. I have
15 issy67@comcast.net?

16 MR. C [REDACTED]: Yes.

17 NAVIENT REPRESENTATIVE: Okay. And now
18 with that telephone number, I just want to make
19 sure I covered this. To help us contact you more
20 efficiently, may Sallie Mae Bank and Navient and
21 their respective subsidiaries, affiliates, and
22 agents contact you at this number using an auto-
23 dialer -- actually, let me rephrase that. To
24 help us contact you more efficiently, may Sallie
25 Mae Bank and Navient and their respective

1 subsidiaries, affiliates, and agents send text
2 messages to you at this number using an
3 auto-dialer or prerecorded messages regarding
4 your current or future accounts?

5 MR. C. [REDACTED]: I -- I don't want anybody
6 to call me at this number.

7 NAVIENT REPRESENTATIVE: Okay. So no
8 text messages. That's what I'm --

9 MR. C. [REDACTED]: No.

10 NAVIENT REPRESENTATIVE: -- speaking
11 of. No text. Okay. It looks like we're already
12 set up for the prerecorded messages already and
13 it's talking about text messages. Okay. And we
14 already went over the e-mail, so. Okay. So
15 currently the account is 54 days past due. There
16 is a present amount due of \$436.25. And there is
17 a late charge of \$32.82. And with payment
18 being --

19 MR. C. [REDACTED]: Well --

20 NAVIENT REPRESENTATIVE: --
21 (unintelligible) with something, would you like
22 to make any type of payment?

23 MR. C. [REDACTED]: I already made a payment.
24 You can look at the system. (Unintelligible)
25 have you look at the system. I just -- I just

1 made the two payments to the two accounts.

2 NAVIENT REPRESENTATIVE: I see -- I see
3 \$100.17 here. That's in here.

4 MR. C [REDACTED]: I will be sending as much
5 as I can on both accounts and that will be as
6 much as I can put in.

7 NAVIENT REPRESENTATIVE: Okay.

8 MR. C [REDACTED]: (Unintelligible.)

9 NAVIENT REPRESENTATIVE: And I see on
10 the other account I don't have payment, yet it's
11 64 days past due. This is the Department of
12 Education side that we service. 64 days past
13 due. The present amount due is \$955.84. Now,
14 can you normally afford these payments on a
15 monthly basis, sir, and be successful with them?

16 MR. C [REDACTED]: Yes.

17 NAVIENT REPRESENTATIVE: Okay.

18 MR. C [REDACTED]: That was what payment?
19 What are you talking about?

20 NAVIENT REPRESENTATIVE: Like -- well,
21 you have a Department of Education side that we
22 do service.

23 MR. C [REDACTED]: I understand that. I
24 know. I have the two sides, the Department of
25 Education and the federal loan. Correct?

1 NAVIENT REPRESENTATIVE: The commercial
2 side, yes, sir.

3 MR. C. [REDACTED]: Okay.

4 NAVIENT REPRESENTATIVE: Okay.

5 MR. C. [REDACTED]: So I'll be making -- I'll
6 be making regular payments online. I'm going to
7 set up the payment schedule, and so they can take
8 out the money -- the money from the account. I
9 want that set it up. (Unintelligible) --

10 NAVIENT REPRESENTATIVE: Okay. So you
11 want to set it to auto debit?

12 MR. C. [REDACTED]: Yes.

13 NAVIENT REPRESENTATIVE: Okay. Would
14 you like to set that up with me right now?

15 MR. C. [REDACTED]: No.

16 NAVIENT REPRESENTATIVE: No? Okay.
17 And also you do have --

18 MR. C. [REDACTED]: I already registered
19 online.

20 NAVIENT REPRESENTATIVE: Okay. Great.
21 So, of course, the payment amounts per month is
22 \$178.75. That's your commercial side that we
23 service. But the Department of Education side
24 that we service is \$238.96 a month, so those are
25 good amounts on a monthly basis?

1 MR. C [REDACTED]: We go -- I'm going --
2 again, I'm gonna be making the payments as much
3 as I can every month, so most likely will be --

4 NAVIENT REPRESENTATIVE: No. The
5 reason why I was --

6 MR. C [REDACTED]: -- between \$200 -- and
7 \$200 a month --

8 NAVIENT REPRESENTATIVE: Okay.

9 MR. C [REDACTED]: -- I don't know.

10 NAVIENT REPRESENTATIVE: The reason why
11 I ask, because (unintelligible) we can look at
12 some other options to try to reduce the payment
13 maybe or we could give you some time so you
14 could --

15 MR. C [REDACTED]: You can do whatever you --
16 you can do -- you can reduce the payment, but
17 what I'm saying is that I'm only going to be able
18 to probably --

19 NAVIENT REPRESENTATIVE: I understand
20 that.

21 MR. C [REDACTED]: -- budget -- I probably
22 budget about between two -- probably two hundred,
23 so probably -- I'm gonna try to make often
24 payments, like every two weeks, so I think that
25 will be best for me.

1 NAVIENT REPRESENTATIVE: Okay.

2 MR. C [REDACTED]: You know, I
3 (unintelligible).

4 NAVIENT REPRESENTATIVE: Yes, sir.
5 Well, let me ask you some questions really
6 quickly to see how we can help you out. So who's
7 your employer?

8 MR. C [REDACTED]: You don't need my
9 employer. I --

10 NAVIENT REPRESENTATIVE: Okay. You
11 don't (unintelligible).

12 MR. C [REDACTED]: No. Okay.

13 NAVIENT REPRESENTATIVE: Okay. Well --
14 (Cross-talking.)

15 MR. C [REDACTED]: (Unintelligible.)

16 NAVIENT REPRESENTATIVE: Well, the
17 thing is I can actually bring this account
18 current today and make it around \$200. That's my
19 objective. I'm showing, and reach exactly what
20 you're talking about --

21 MR. C [REDACTED]: Well, then you can --

22 NAVIENT REPRESENTATIVE: -- to make
23 sure you can make the payments --

24 MR. C [REDACTED]: -- yeah. Well, then you
25 can go ahead and do that.

1 NAVIENT REPRESENTATIVE: -- and be
2 successful in making that payment. So I just
3 need to ask you some questions, okay, to tend to
4 what I need to do to help you. Including
5 yourself, what is your family size?

6 MR. C. [REDACTED]: Excuse me?

7 NAVIENT REPRESENTATIVE: Including
8 yourself, what's your family size?

9 MR. C. [REDACTED]: What (unintelligible)?

10 NAVIENT REPRESENTATIVE: What is your
11 family size?

12 MR. C. [REDACTED]: Listen. I've got to get
13 going. Somebody is showing me something in the
14 office. Can you send me that by email?

15 NAVIENT REPRESENTATIVE: I can't -- oh,
16 I can send you your current account information
17 by e-mail. That's one thing that we do --

18 (Recording ends.)

19 (Testimony continues as follows:)

20 MS. VAN HOOSE: Okay. It's done.

21 QUESTIONS BY MR. ALVAREZ:

22 **Q. Ms. Hahn.**

23 **A. Yes.**

24 **Q. How would you characterize that phone call?**

25 **A. Under what terms?**

APPENDIX C

1 Q. Okay. And can you show me in any of the account
2 notes or critical -- I'm sorry. I'm blanking on
3 the -- in any of the documents that have been
4 provided and reviewed today, can you show me how
5 NSI characterized or classified that
6 conversation?

7 A. What was the date of that call?

8 Q. 6/18/2015. And just -- Ms. Hahn, when you get
9 there, just let me know what you're looking at so
10 I can look at it with you.

11 MS. VAN HOOSE: Stefan, I think we
12 covered all of this earlier. The notes relating
13 to the 6/18 call, and --

14 MR. ALVAREZ: I just want to get
15 clarification based on the fact that she -- that
16 Ms. Hahn was able to now listen to the recording
17 on that date.

18 MS. VAN HOOSE: I'm confused at what
19 you want clarification of.

20 A. Yeah, I -- I am as well.

21 Q. Whether or not the account notes accurately
22 reflect the recording that the witness just
23 listened to?

24 A. Based off of the account notes when we had
25 reviewed those, I could not make a justification

1 as to whether there was revocation or not. Based
2 off of listening to the phone call, I do not
3 believe that the employee heard any type of
4 revocation. Again, I cannot say exactly what was
5 interpreted. I can only say what I hear from the
6 phone call.

7 MR. ALVAREZ: Okay. Can we play the
8 recording Bates stamped NSI 187?

9 MS. VAN HOOSE: Yep.

10 (The following recording played at this
11 time was later transcribed by the court reporter
12 as follows:)

13 NAVIENT REPRESENTATIVE: Hello. Is
14 Ismael --

15 MR. C [REDACTED]: (Unintelligible.)

16 NAVIENT REPRESENTATIVE: Hello. Is
17 Ismael C [REDACTED] --

18 MR. C [REDACTED]: Who's calling? Who's
19 calling?

20 NAVIENT REPRESENTATIVE: My name is --
21 my name is Alysa Combit (phonetic). I'm calling
22 from Navient, the Department of Education Loan
23 Services.

24 MR. C [REDACTED]: Why are you calling me?

25 NAVIENT REPRESENTATIVE: We're reaching